



NIBLEY CITY COUNCIL MEETING AGENDA  
Thursday, April 20, 2017 – 6:30 p.m.  
Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Opening Ceremonies (Councilmember Beus)
2. Call to Order and Roll Call (Chair)
3. Approval of Minutes and Agenda (Chair)
4. Public Comment Period<sup>1</sup> (Chair)
  
5. Presentation regarding strategies for managing feral cats in Nibley
6. Discussion and Consideration of A Proclamation recognizing Arbor Day in Nibley City
7. Discussion and Consideration of Ordinance 17-08: An Update to the Nibley City Landscaping Code (Second Reading)
8. Discussion and Consideration of Ordinance 17-09: Canal Ordinance (First Reading)
9. Discussion and Consideration of a Final Plat and Development Agreement for the Green Acres Subdivision – a 5-lot Residential Subdivision located at approximately 3600 S 250 W
10. Discussion of development north of Firefly Park
11. Council and Staff Reports

**Adjourn Meeting**

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL 752-0431 A MINIMUM OF 24 HOURS BEFORE THE MEETING.*

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<sup>1</sup> *Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.*



**Nibley City Council  
Agenda Report for  
April 20, 2017**

**Agenda Item # 5**

<b>Description</b>	Presentation regarding strategies for managing feral cats in Nibley
<b>Department</b>	Animal Control
<b>Presenter</b>	Shaun Dustin, Mayor and Bret Mossman, USU Chapter of the Wildlife Society and the Bridgerland Audubon Society
<b>Applicant</b>	
<b>Background</b>	Mayor Dustin and Mr. Mossman will discuss strategies for managing feral cats in Nibley.
<b>Recommendation</b>	Receive presentation and provide direction
<b>Reviewed By</b>	Mayor

**Agenda Item # 6**

<b>Description</b>	Discussion and Consideration of A Proclamation recognizing Arbor Day in Nibley City
<b>Department</b>	Planning
<b>Presenter</b>	Stephen Nelson, City Planner
<b>Applicant</b>	
<b>Background</b>	<p>Nibley City participates in the Tree City USA program administered by the Arbor Day Foundation. In order to be designated as a Tree City USA City, there are several standards the City must meet, including the following:</p> <ol style="list-style-type: none"><li>1. Have a tree board or tree department</li><li>2. Have a tree care ordinance</li><li>3. Have a community tree program with a budget of at least \$2 per resident.</li><li>4. Hold an annual Arbor Day observance and make an Arbor Day Proclamation</li></ol> <p>Arbor Day in 2017 is proposed to be recognized on Saturday, May 13 in conjunction with a plant and tree event being hosted by the Stokes Nature Center at their nature preserve in Nibley.</p>
<b>Financial Impact</b>	In accordance with the Tree City standards, the City spends more than \$12,000 per year on tree related activities, including planting new trees, providing trees to residents to plant in the City, and equipment and staff time to maintain existing trees.
<b>Recommendation</b>	Approve the Proclamation
<b>Reviewed By</b>	Mayor, City Manager, City Planner

**Agenda Item # 7**

<b>Description</b>	Discussion and Consideration of Ordinance 17-08: An Update to the Nibley City Landscaping Code (Second Reading)
<b>Department</b>	Planning
<b>Presenter</b>	Stephen Nelson, City Planner
<b>Applicant</b>	
<b>Background</b>	<p>This item was first presented to the City Council on March 16, 2017. It was brought back to the Council for a second review on March 30. At that meeting, the City Council gave direction to staff to do some research about the conflict in City code regarding trees in the right-of-way (ROW), and to reach out to other Cities about what sizes they require. City staff has done both of these items and have included some updates to the proposed ordinance.</p> <p>The first update is that staff has removed the language in the proposed Ordinance 17-08 about landscaping in the ROW being optional. Instead the ordinance now references back to the Public Ways and Property code, which already requires 1.5 inch caliper trees. Staff feels that it is appropriate for trees in the ROW to be slightly larger than those required for other areas. City staff has also changed the wording in the section for commercial and industrial landscaping to state that all trees in the ROW must comply with the Public Ways and Property code. This is found in Title 7, Chapter 6 of the City Code</p> <p>Staff has also reached out to other municipalities in Cache County about their requirements for trees. Most cities contacted require a tree size between 1 and 2 inches in caliper. After review, staff still recommends the 1.25 inch caliper for commercial and industrial developments.</p> <p>At the last meeting, Council also had a question about staking requirements for trees planted according to this Code. The Nibley City Public Works Design Standards already require staking of trees based on the American Public Works Association standards.</p> <p><b>Background:</b></p> <p>When a new commercial or industrial development is created, Nibley City requires the developer to provide a landscaping plan for said development that complies with Nibley City Code 10-12-17. The City has received some feedback from a couple of the previous developers about some aspects of the code. Staff has research some of the recommendations and have made changes staff believes are appropriate.</p> <p>One of the main concerns that has been brought before staff is the tree size. Right now, our code 10-12-17 (C)(3) requires that developers plant 2”</p>

	<p>caliper trees. There are a couple of problems with this requirement. 1) Trees that are planted at 2" caliper tend to be sturdier, but also more likely to have problems after being planted. 2" caliper trees are not able to adapt to new ground as quick as smaller trees and take longer to recover. 2) 2" caliper trees also tend to cost more, normally ranging \$100-\$200 dollar more than trees of smaller caliper. When developers are required to plant upward to 50 trees or more, this can cost developer thousands of more dollars.</p> <p>Nibley City staff has done some research regarding these requests and are proposing that the code be changed. The proposal changes the requirement from 2" caliper trees to 1.25" caliper. Nibley City staff has found when the City has planted trees, that generally trees planted 1.25" caliper are healthier and grow faster, and would outgrow a 2" caliper tree within the first 5 years.</p> <p>In addition to this change, City staff is recommending that trees planted in the ROW count towards the number of required trees by the developer. Nibley City code currently recommends that trees are planted in the ROW, but does not require it because trees in the ROW can be a safety concern for some lots. However, trees in the ROW can provide a buffer between the street and commercial or industrial development and shade for those on the sidewalks. This code change is to encourage planting in the ROW where appropriate.</p> <p>The other change that has been added is an item staff believes will help enforce landscaping requirements after a development has been approved. The new changes clarify that the City can withhold occupancy or a conditional use permit from a development that has not complied with the landscaping code.</p> <p>The Planning Commission voted to recommend the approval of the changes to the landscaping code on March 22, 2017.</p>
<b>Recommendation</b>	Approve changes to Nibley City Landscaping Ordinance
<b>Reviewed By</b>	City Planner, City Building Inspector, Parks Director/City Arborist, City Manager, and Planning Commission

## Agenda Item # 8

<b>Description</b>	Discussion and consideration of a proposed Nibley City Canal Ordinance
<b>Department</b>	Planning
<b>Presenter</b>	Stephen Nelson, City Planner
<b>Applicant</b>	N/A
<b>Background</b>	<p>The Nibley City Planning Commission, the Nibley Blacksmith Fork and College Irrigation companies and staff have been working on a proposed Canal Ordinance with the following goals:</p> <ul style="list-style-type: none"><li>• To help establish and/or clarify canal easement and setbacks in the City</li><li>• To codify aspects of the operating legal agreement the City has with the Blacksmith Fork Irrigation Company</li><li>• To protect the canal from being altered or obstructed without the consent of the canal company</li><li>• To further establish legal penalties and enforcement policies for those who alter a canal without permission</li><li>• To protect the rights of residents, irrigation companies, shareholders and Nibley City</li><li>• To create options for land use next to canals as land transitions from agricultural use to other uses</li><li>• To allow the City to continue to use canals for stormwater purposes.</li></ul> <p>Here are some highlights from the proposed code:</p> <p><b>Section 3</b></p> <p>Section 3 establishes that easements or rights-of-way shall be dedicated to the City with new subdivisions along canals. Each easement established shall be based on the size of the canal capacity. As the canal gets smaller, the easement required also shrinks in size. The easement alignment shall be agreed upon by the City and canal company with the developer.</p> <p><b>Section 4</b></p> <p>Section 4 primarily deals with establishing setbacks for canals. According to Nibley's operating agreement with the Nibley Blacksmith Fork Irrigation Company, there should be a 15 ft. setback from the top of the inside bank</p>

along all both sides of open canals and 10 ft. from the centerline of both sides of a piped canal. However, the agreement also provides that this can be modified as if agreed to by the parties. Section 7 provides an option to submit to the canal company a plan to place items such as fences, bridges or other items closer to the canal with the canal company's permission.

#### **Section 5**

Section 5 requires that, when there is a change in land use, a formal easement be recorded.

#### **Section 6**

This section outlines different requirements and some conditions about Nibley's access to the Blacksmith Fork Irrigation Company's canals. A lot of this verbiage is taken directly from the City's legal agreement with the Blacksmith Fork Irrigation Company. One of the primary issues this section addresses is the construction of new stormwater inlet structures and the process for the City to gain permission for these new pieces of infrastructure.

#### **Section 10**

Section 10 outlines the conditions for approval for the use of a canal for stormwater conveyance. The nature of canals is that they sometimes decrease in capacity the further down system the water goes. This is because, when used for irrigation, water is drawn out of the canal and less capacity is necessary after that point. Stormwater systems are designed to increase in size the further down system water goes as the system gains more water from runoff. Therefore it is important that the City and canal company consider the size of a canal at its smallest point when considering if it can be used for stormwater overflow. It is also important that canal water be given priority above that of stormwater. Section 10 seeks to lay out conditions for the City and canal company to consider for conveying stormwater.

#### **Section 12**

Section 12 outlines an appeal process for any land use application that is denied by the City in reference to this ordinance.

#### **Section 13-18**

This section is aimed at protecting the integrity of the canal and providing a real consequence for violations. Some of these items include putting things in the canal such as green waste, garbage, poles, and other items that could cause problems or clogs in the canal. It also outlines that

	residents are not allowed to alter the canal, its banks or even the hillside that the canal rests on without the canal company's permission.
<b>Financial Impact</b>	There are cost for enforcing and reviewing compliance with ordinances.
<b>Recommendation</b>	Make a motion to approve the first reading of this ordinance.
<b>Reviewed By</b>	City Planner, City Attorney, City Public Works Director, City Engineer, City Manager, Planning Commission and Mayor,  Also reviewed by the Blacksmith Fork Irrigation Company and the College Ward Irrigation Company



**Agenda Item # 9**

<b>Description</b>	Discussion and consideration of a recommendation for the final plat for Green Acres Subdivision located at approximately 25 W 3650 S										
<b>Department</b>	Planning										
<b>Presenter</b>	Stephen Nelson, City Planner										
<b>Sponsor</b>	n/a										
<b>Applicant</b>	Bill Green										
<b>Background</b>	<p>Green Acres is a five-lot subdivision on Bill Green’s property. Bill Green is a resident and also a member of the Planning Commission and has signed the proper disclosure paperwork required by Nibley City and State law. The property is zoned R-2. Mr. Green is proposing a standard Subdivision.</p> <table border="1" data-bbox="505 852 1430 1024"> <thead> <tr> <th></th> <th><b>R-2 Zone Requires</b></th> <th><b>Green Acres</b></th> </tr> </thead> <tbody> <tr> <td><b>Min Lot Size</b></td> <td><b>.5 acres</b></td> <td><b>All Lots meet or exceed</b></td> </tr> <tr> <td><b>Frontage</b></td> <td><b>100 ft.</b></td> <td><b>All lots meet or exceed</b></td> </tr> </tbody> </table> <p><b>Infrastructure and Transportation:</b> Most of the primary infrastructure; including streets, sidewalks, curbs, gutters and utilities, have previously been installed. The developer will need to cut into the road to add water and sewer laterals for each lot and plant street trees in the park strip. The City Engineer has reviewed the plat and does not have any concerns. The developer has included the lateral lines on the plat.</p> <p><b>Groundwater:</b> The developer has had an engineer provide a report to the City of the groundwater elevation and has listed the groundwater on the plat as a note and has required that each finished floor be placed at a higher elevation than the measured groundwater.</p> <p><b>Development Agreement:</b> The development agreement that is being proposed is much simpler than usual because there are no major improvements that are being made. Nibley City’s attorney is currently reviewing the agreement and will provide any recommended changes to the agreement before the City Council meeting.</p> <p><b>Lot Line Adjustment:</b> The developer will need to do a lot line adjustment in order for Lot 1 to meet frontage requirements. Nibley City Code 11-4-3 states the following:</p>			<b>R-2 Zone Requires</b>	<b>Green Acres</b>	<b>Min Lot Size</b>	<b>.5 acres</b>	<b>All Lots meet or exceed</b>	<b>Frontage</b>	<b>100 ft.</b>	<b>All lots meet or exceed</b>
	<b>R-2 Zone Requires</b>	<b>Green Acres</b>									
<b>Min Lot Size</b>	<b>.5 acres</b>	<b>All Lots meet or exceed</b>									
<b>Frontage</b>	<b>100 ft.</b>	<b>All lots meet or exceed</b>									

### 11-4-3 Lot Line Adjustments

*An agreement to adjust lot lines between adjoining properties, whether in a subdivision or on unsubdivided parcels of land, may be executed by the owners of record of said properties and recorded upon execution, if the following conditions are met:*

- A. No new lot results from the lot line adjustment.*
- B. No previously existing lot is eliminated as a result of the adjustment.*
- C. If the properties to be adjusted are in a subdivision, the lot sizes, frontages and configurations are consistent with this title and Title 10 of the Nibley City code.*
- D. No lot is made undevelopable without a variance or other special consideration.*
- E. All property owners directly affected by the lot line adjustment give their consent.*
- F. The lot line adjustment does not result in a remnant piece of land that did not exist previously.*
- G. The lot line adjustment does not result in the violation of any applicable zoning ordinance.*
- H. The lot line adjustment does not substantially alter legal lots that may otherwise need further review by the Planning Commission or City Council in the form of a subdivision amendment.*

*Provided the above conditions are met, no municipal land use authority approval is required.*



	The lot line adjustment meets all of the requirements listed above, and the developer is currently working with Cache County and the other property owner to have the lot line adjustment recorded.
<b>Findings</b>	<ul style="list-style-type: none"><li>• Lot size and frontage meet the requirements for the zone</li><li>• The final plat meets Nibley City Code.</li></ul>
<b>Recommendation</b>	Make a motion to approve the final plat for Green Acres Subdivision
<b>Reviewed By</b>	City Planner, City Engineer, City Public Works Director, City Attorney, City Manager, and Planning Commission.

**Agenda Item #10**

<b>Description</b>	Discussion of development north of Firefly Park
<b>Department</b>	City Council
<b>Presenter</b>	Shaun Dustin, Mayor
<b>Sponsor</b>	N/A
<b>Applicant</b>	N/A
<b>Background</b>	For the March 30 Council meeting, Councilmember Beus requested that an agenda item be scheduled to discuss the pending development planned to occur north of Firefly Park in Logan City and the impacts such development could have on Nibley. Mayor Dustin would like to continue the discussion.
<b>Findings</b>	N/A
<b>Financial Impact</b>	N/A
<b>Recommendation</b>	Discuss concerns and provide direction to staff
<b>Reviewed By</b>	Mayor, City Manager, City Planner

**A PROCLAMATION CELEBRATING ARBOR DAY IN NIBLEY CITY, UTAH**

**WHEREAS**, in 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees; and

**WHEREAS**, this holiday, called Arbor Day, was first observed with the planting of more than one million trees in Nebraska; and

**WHEREAS**, Arbor Day is now observed throughout the nation and the world; and

**WHEREAS**, trees reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen, and provide habitat for wildlife; and

**WHEREAS**, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires, and countless other wood products; and

**WHEREAS**, trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS**, trees, wherever they are planted, are a source of joy and spiritual renewal; and

**WHEREAS**, Nibley City makes great efforts to set the example in planting trees and encouraging citizens to do likewise; and

**WHEREAS**, Nibley City desires to improve its efforts to commemorate Arbor Day each year; and

**WHEREAS**, Nibley City has chosen to celebrate Arbor Day 2017 on May 13 when the Stokes Nature Center will host a tree sale in Nibley; and

**WHEREAS**, the tree sale will be an occasion to provide residents with information on tree plantings, as well as seedlings to start cultivating their own yards.

**NOW, THEREFORE**, I, Shaun Dustin, Mayor of the City of Nibley do hereby proclaim Saturday, May 13, 2017, to be **ARBOR DAY** in the City of Nibley, and urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST

\_\_\_\_\_  
David Zook, City Recorder

ORDINANCE 17-08

AN UPDATE TO THE NIBLEY CITY LANDSCAPING CODE

WHEREAS, Nibley City requires proper landscaping in order to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant community; and

WHEREAS, landscaping also contributes to the relief of heat, noise and glare through the proper placement of green plants and trees, and

WHEREAS, Nibley City requires trees to be planted around commercial and industrial buildings, and

WHEREAS, trees planted at a caliper of 1.25” inches grow faster and tend to be healthier than those planted at 2” inch caliper.

WHEREAS, 2” caliper trees place a higher financial burden on new commercial and industrial development.

NOW THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL LOCATED AT NIBLEY CITY, STATE OF UTAH, THAT:

1. The attached updated Landscaping Ordinance is hereby adopted.
2. All ordinances, resolutions and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution or ordinance or part thereof.
3. This ordinance shall become effective upon posting as required by law.

Passed by the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST: \_\_\_\_\_

## 10-12-17 Landscaping

### A. Landscaping Requirements:

1. Purpose: The purpose of the landscaping requirements in this section shall be to enhance, conserve and stabilize property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of a pleasant community. Landscaping also contributes to the relief of heat, noise and glare through the proper placement of green plants and trees.
2. Yard Requirements For Residential Zones: At least sixty percent (60%) of the area contained within a required front or side yard adjacent to a street in any residential zone shall be landscaped.
3. Scope Of Requirements: Where landscaping is required, such landscaping shall comply with the requirements set forth in this section for the specific use and location.
4. Maintenance: Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition.

### B. Landscaping Recommended Of Public Street Rights Of Way:

1. Purpose: The purpose of landscaping of public street rights of way is to enhance the beauty of neighborhoods and streets and to reduce the glare, heat and noise reflected from paved roadways.

2. All landscaping taking place in rights-of-way shall comply with Nibley City Public Ways and Property – Streetscape of Public Rights-Of-Way code.

~~2.3. Recommended Plants: Trees and lawn are recommended for street rights of way. Where public overhead utility easements run along the street right of way, only trees with a mature height of less than thirty five feet (35') shall be planted. Lower branches of trees planted in the street right of way shall be pruned to allow a clear view of sidewalks from the road. All plantings shall conform to section 10-12-11 of this chapter, clear view of intersecting streets.~~

### C. Commercial And Industrial Zones:

1. Percentage Of Gross Area: Landscaping shall be required on twenty percent (20%) of the gross area of a lot or site located in the commercial zone. Landscaping shall be required on ten percent (10%) of the gross area of an industrial zone lot or site. Gross area is interpreted as the total site area remaining after any right of way dedication.
2. Setback: The minimum building and principal use setback from any street right of way shall be twenty feet (20') in commercial zones and fifty feet (50') in industrial zones. Parking shall not be allowed within this minimum setback area. Such areas shall be permanently landscaped except for approved access drives.

3. Tree Ratio: A mixture of evergreen and deciduous trees shall be planted at the ratio of one tree for each three hundred (300) square feet of the net landscape area. Trees shall have a minimum caliper of 1.25 inches. All trees must be planted according to Nibley City Public Works Design Standards. The trees planted in the City's public street rights-of-way or other parts of the development may count toward the total number of trees required for landscaping. All trees planted in the City rights-of-way must comply with Nibley City Public Ways and Property Streetscape of Public Rights-Of-Way Code.

~~3.4.~~ Adjacent To Residential Zones: All setbacks adjacent to the rear yard or side yard of an existing or proposed residential use shall be permanently landscaped. Setback areas adjacent to residential areas may be increased by the planning commission if, in their opinion, it is necessary to protect the atmosphere and integrity of the residential neighborhood.

~~4.5.~~ Irrigation: All landscaped areas shall be provided with an irrigation system, capable of complete coverage of the areas and designed to minimize runoff and other wasting of water. Such system shall be maintained in a fully operational condition. All landscaping shall be maintained in a healthy, neat and orderly condition, free of weeds and litter. All paved areas, walls or fences shall be in good repair without broken parts, holes, potholes or litter.

~~5.6.~~ Type Of Landscaping: All landscaped areas may be landscaped with a mixture of ground cover, grass, shrubs or trees, and may include sculptures, patios or fountains.

~~6.7.~~ Plans And Designs For Approval: All landscaping plans and designs shall be submitted to the planning commission with other required plot plans for approval.

~~7.8.~~ Screening Requirements: Where landscaped screening is required for other than residential use, said screening shall consist of evergreen shrubs, closely spaced and maintained at substantially the specified height of said required screening. When not otherwise specified, natural screening shall be maintained at a height of from four feet (4') to seven feet (7').

~~8.9.~~ Plot Plan Required: Where landscaping is required for other than residential uses, a plot plan showing the proposed landscape development, plant materials, watering system and use of the property shall be submitted to the planning commission. The same plot plan used to show parking layout or other requirements for the issuance of a building permit may be used to show landscaping, providing all proposed landscaping is detailed adequately on said plot plan. The planning commission may disapprove such plans if they determine that they are not consistent with the requirements and purposes of this title.

10. Conflicting Provisions: If requirements of this section are in conflict with other requirements of this title, the provisions of this section shall apply.

~~9.11.~~ The City may deny occupancy or conditional use permits to any commercial or industrial development that does not comply with this chapter.





**ORDINANCE 17-09**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF IRRIGATION CONVEYANCE**

WHEREAS, Nibley City has an ownership interest in all irrigation companies within the City; and

WHEREAS, Nibley residents rely on free-flowing and clean conveyances for the conveyance of irrigation water to agricultural and rural landscapes, and also for the conveyance of City stormwater; and

WHEREAS, unobstructed conveyances are critical to controlling flooding of private and public property within the City, and, in some cases, are integral parts of the City's historic stormwater infrastructure; and

WHEREAS, open conveyances provide critical wildlife habitat and corridors, opportunities for connectivity and recreation, and are an integral part of the rural landscape; and

WHEREAS, water rights are privately held property and the diversion, distribution, delivery, and use of irrigation waters existed prior to the establishment of Nibley City, and much of the City's subsequent residential development; and

WHEREAS, agricultural irrigation and its conveyance corridors are critical to the sustainability of agricultural land uses in the community, and the preservation of desirable rural characteristics; and

WHEREAS, increased development pressure is impeding conveyance owners' ability to maintain the infrastructure such that it can function for its intended purposes of flood control and irrigation delivery; and

WHEREAS, Nibley City has certain contractual obligations with respect to the Nibley Blacksmith Fork Irrigation Company (NBFI); and

WHEREAS, Nibley City has the authority to establish policies to control the impact of development on commonly held assets and resources within the City.

NOW THEREFORE, BE IT ORDAINED BY THE NIBLEY CITY COUNCIL OF NIBLEY, UTAH THAT:

1. The attached ordinance, titled "AN ORDINANCE PRESERVING THE SAFETY AND ALLOWING FOR MAINTENANCE OF IRRIGATION CONVEYANCE" is hereby adopted.

2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.

3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST:

\_\_\_\_\_  
David Zook, City Recorder

**ORDINANCE 17-\_\_\_\_**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF IRRIGATION CONVEYANCE**

1. Conveyance as used in this Ordinance includes surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface, and includes open canals or ditches as well as piped waterways.

2. Irrigation companies shall have the right of access to irrigation Conveyance structures, fixtures, features, channels, and pipes as allowed by state law, and as permitted by the easements and rights of way of such companies.

3. Easements or rights-of-way shall be dedicated to the City with all new subdivisions as follows:

a. Applicants shall provide on all subdivisions where an open irrigation Conveyance with 40 cubic feet per second (CFS) capacity or greater traverses the subdivision an easement and right-of-way of 30' to be identified on the preliminary plat and final plat.

b. Applicants shall provide on all subdivisions where an open irrigation Conveyance with greater than 20 and less than 40 CFS capacity traverses the subdivision an easement and right-of-way of 20' to be identified on the preliminary plat and final plat.

c. Applicants shall provide on all subdivisions where an open irrigation Conveyance with less than 20 CFS capacity traverses the subdivision an easement and right-of-way of 15' to be identified on the preliminary plat and final plat.

d. Piped irrigation Conveyances shall have a twenty-foot (20') easement extending (10') either side of centerline for any portion that has been piped.

e. Each new subdivision shall dedicate easements or rights-of-way to the City, for use by the public if the City chooses, along irrigation Conveyances to the City. Irrigation Conveyance easements or rights-of-way will not count against zoning density requirements when preserved as an open channel or waterway. The company that is responsible for the maintenance of the Conveyance shall also have access to the easement in order to render service or maintenance to the Conveyance.

f. So far as possible, all dedicated easements shall be directly accessible from public rights-of-way and shall provide unobstructed access for service equipment.

g. Alignment(s) of all easements relative to the Conveyance alignment(s) shall be coordinated with the City and Conveyance company.

h. Irrigation structures such as boxes, bridges, trash racks, or similar structures or appurtenances which are wider than the open channel or piped Conveyance shall be provided with dedicated easement or right-of-way no less than 15' beyond the maximum footprint of the structure, but not less than the width of the right-of-way of the Conveyance upon which the structure is placed.

4. Setbacks to protect access to irrigation Conveyance structures, fixtures, features, channels, pipes shall be established on all new construction for emergency and maintenance activities, and to provide safety to structures near waterways.

a. Open Conveyances shall be provided a setback of fifteen-feet (15') measured from the top of inside bank of the canal, or the toe of the canal, whichever is greater; and piped Conveyances shall be provided 10' setback measured from the center of the pipe.

b. Setbacks shall apply to all primary and accessory structures, fences, decks or similar features that would otherwise hinder maintenance or emergency access to the Conveyance corridor regardless or not if a permit is required.

c. The City will not require permits for existing fences or structures or permanent improvements within the fifteen-foot (15') setback if such were legal under Nibley City Ordinances when such structures were constructed.

d. Nibley City will not issue building, fence, grading or other permits that would limit, hinder, infringe or encroach upon any established canal easement or setback by deed, use or otherwise for access to or maintenance of the canals and waterways within the City.

e. If these setback requirements conflict with other City Ordinances, agreements, franchise or other document governing setbacks provisions, the greater setback requirement shall prevail.

5. For changes in land use, including but not limited to building permits, new subdivisions, rezones, annexations, and development:

a. Nibley City shall condition approval upon the formal recording of any reasonable irrigation Conveyance easements for access, maintenance, and public safety.

b. Easements for irrigation Conveyances and for access to the same within any new subdivision shall be required for approval of any proposed subdivision.

c. The City may require Preliminary Plats to be submitted to canal or irrigation companies who may be impacted by the subdivision for review, comment and/or approval.

6. The City adopts the following conditions and requirements with respect to any land use change, development, or improvement that may impact any NBF1 irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes and which, at the

discretion of the City Manager, in consultation with the Mayor, may be applied to and required for other irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes within the City prior to any land use change, development or improvement:

a. Authorization for New Storm Water Inlet Structures and Outlet Structures. No new or additional Storm Water Inlet Structures and Outlet Structures and no increases in the flow of such inlets or outlets beyond the Current Discharge as defined by an Agreement between the City and NBF I shall be created or maintained except in conformance with the following procedure.

(1) The City, a landowner, or a developer may at any time contact NBF I to evaluate the potential for new Inlet Structures and Outlet Structures, or the potential for an increase in the capacity of any existing Inlet Structure or Outlet Structure.

(2) The City, a landowner, or a developer shall provide a written request to NBF I for each additional Storm Water Inlet Structure or Outlet Structure and for increases in flow beyond the Current Discharge or any previously approved increase for existing Inlet Structures or Outlet Structures. The request shall be accompanied by the following:

(i) Drawings in both digital and printed copy showing the location, size and design specifications of each Inlet Structure or Outlet Structure proposed to be added or increased.

(ii) Drawings showing the drainage area to be served by the Inlet Structure.

(iii) Expected occurrences that will cause Storm Water inflow into the irrigation Conveyance, including an estimate of the time of year during which maximum inflows are expected, subject to subsection (iv) below.

(iv) An estimate of the maximum inflow to be expected from the area to be served by the Inlet Structure (with the understanding that the maximum flow may not exceed the flow allowed by Current Design Standards). This rate is determined by completing a hydrologic analysis based on soil types to determine the runoff rates prior to any land use change, development or improvement for sites greater than 1 acre, or by assuming a historical runoff rate of 0.1 CFS per acre for sites smaller than 1 acre.

(v) Written disclosure of whether the Storm Water discharge to the irrigation Conveyance is expected to contain any Pollutant regulated under the Utah Clean Water Act and implementing regulations thereof.

(vi) Certification that the City, landowner or developer has complied and will comply with all applicable requirements of the Utah Water Quality Act and associated regulations.

(vii) Any additional documentation or information reasonably requested by NBFi.

b. Any objections of any kind by NBFi to a new proposed Inlet Structure, Outlet Structure, or the enlargement of either, shall be given by written notice within sixty (60) days after receipt by NBFi of the written request for the same from the City, landowner or developer. NBFi shall have the right to refuse such approval only if, as demonstrated by empirical data:

(1) in the case of a new Inlet Structure or enlargement of an existing Inlet Structure, water inflow into the Conveyance from such inlet will exceed the Current Discharge into the Conveyance from the drainage area to be served by such inlet;

(2) the inflows are found by a City-County Health Department or other State, County or federal agency to be physically harmful to animals, crops of any kind, or any other beneficial use of the water; or

(3) the proposed Inlet Structure or Outlet Structure will diminish the ability to utilize all of the water to which NBFi is entitled under its water rights, hinder water deliveries, or alter, damage or obstruct, diversion structures, measuring devices, or regulating headgates on the Conveyance.

c. If NBFi does not provide written objections within sixty (60) days after receipt of the City's, landowner's, or developer's written request, NBFi shall be deemed to have approved the additional Inlet Structure, Outlet Structure, or increase in capacity of either.

d. If the request for additional Inlet Structures, Outlet Structures or increase in capacity of an inlet or outlet is not agreed to, NBFi shall work with the City, landowner or developer in an attempt to reach an equitable resolution in order to provide for the same.

e. If the additional Inlet Structure, Outlet Structure or increase in flow is formally approved or deemed approved as provided herein, the City shall allow commencement of construction or modification only after a written Agreement has been agreed-to, signed by the City, landowner or developer and NBFi.

f. The City shall require, as a condition to any land use change, development or improvement approval, that infrastructure (such as fencing or other improvements) be installed by a landowner or developer as part of a land development project, when reasonably determined by the City to be necessary.

g. Landowners or developers of any land within the City must include with their plans and specifications a storm water plan that provides for all storm water to be handled at the site of such any land use change, development, or improvement except as may be otherwise approved by the City and NBFi.

h. Trash Racks. The City shall require landowners or developers to install, in connection with City-approved land use changes, development plans, or improvements, trash racks and inlet grates, to the design standard set by the City and NBF, on all Inlet Structures so as to prevent clogging of the headgates, screens and pipelines situated within the Conveyance.

7. If any landowner or developer of any land proposes any piping of an open Conveyance such as a canal or ditch, the construction of bridges or retaining walls, fences within the setback, the installation of culverts, or any other action which may in any way affect a conveyance or access to the Conveyance, the City shall require that the plans and specifications be delivered to the irrigation company, and that the irrigation company consent to the same, in writing, prior to the approval of such land development by the City, which consent or the basis for denying such consent shall be given by the canal company within sixty (60) days after receipt of the request for approval. If the canal company does not provide a written objection within sixty days after receipt of the request, the request will be deemed to have been approved.

8. Alteration of irrigation Conveyance structures, fixtures, features, channels, or pipes, including grading, modification, contouring or removal of vegetation or soil of banks to canals or other irrigation Conveyance easements or rights of way, shall only be done by the irrigation company, or pursuant to a written permit issued by the irrigation company.

9. Vested rights in the established irrigation easements or rights-of-way for both Conveyance of water and for access and maintenance of the irrigation structures or channels or pipes shall be protected against all encroachments and no improvements shall be erected that interfere with the same and the City shall issue no permits for improvements that interfere with the same.

10. Conditions to use of canals for storm water discharge and Conveyance:

a. The right to convey storm water in the canal extends to all times of the year and is not affected by the fact that during the irrigation season the canal company is operating the canal for the transportation and delivery of irrigation water to the canal company's shareholders, subject to the following:

(1) The use of the canal by the City extends only so far as the canal exists in its present state, and only to the extent of such rights as the canal company shall have in the canal. The canal company cannot authorize the City to expand the canal capacity in order to convey additional stormwater beyond that stormwater already authorized and agreed to between the canal company and the City.

(2) At all times, the Conveyance of irrigation water under water rights owned by the canal company shall have first priority in terms of the use and capacity of the canal.



(3) In evaluating the capacity of the canal as part of the City's Storm Water management program, the capacity shall be measured at the most restrictive location on the canal.

11. A civil action for damages or declaratory relief to require a party to comply with this ordinance may be brought by the City or any person injured by another's actions in violation of this ordinance. Such civil action may be brought independent of any criminal action.

12. If the Land Use Authority decision with respect to any land use application adversely affects an applicant, a board or officer of the City, or any other person or organization adversely affected by the Land Use Authority's decision under this Ordinance, the affected person or organization may file an appeal with the City's Appeal Authority only as provided in Section 10-3-3 of the Nibley City Code, Appealing Land Use Authority's Decision.

13. It is unlawful for any person to place any pole, board or other obstruction whatsoever, or any trash, yard waste or other waste material, other than irrigation water, in any Conveyance structure, channel, or pipe for any purpose, or in any manner to interfere with the free and unobstructed flow of water in such Conveyance structure, channel, or pipe. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

14. It shall be unlawful to willfully or maliciously alter, break, or injure any dam, irrigation Conveyance structures, fixtures, features, channels, pipes, or to dig away the bank or banks of any ditch, canal, toe of side slop or reservoir within the Nibley City boundaries. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

15. Whenever any irrigation company has an easement or right of way for any irrigation Conveyance, it shall be unlawful for any person to place or maintain in place any obstruction, or to change the water flow by fence or otherwise, along or across or in any irrigation Conveyance structures, fixtures, features, channels, or pipes, without first receiving a written permit for the change from the irrigation company. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

16. Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, head gate, weir, casing, valve, cap, pump or other appliance for the diversion, apportionment, measurement, or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his or her duties, is guilty of a class B misdemeanor under this Ordinance.

17. It shall be unlawful for any person to place or cause to be placed in the easement, channel, bed or bank of any river, stream, wash or other natural drain or within or upon any storm drain, flood control channel, reservoir, detention basin, debris basin, or other property over which the City or irrigation company has an interest, matter of any kind that may operate to impede, retard or change the normal direction of the flow of flood, storm or other waters, or that may catch or collect debris carried by such waters, or that may be carried downstream by such waters to the damage and detriment of adjacent private or public property, or that may degrade the quality of the water, without first obtaining a written permit for such placement from the City

and irrigation company. Violation of this provision constitutes a Class B Misdemeanor under this Ordinance.

18. In the event any person violates any of the provisions of this Ordinance and the City takes action to correct the violation in order to protect the health, safety or welfare of its residents or to protect public or private property, the violator shall pay all reasonable costs and expenses incurred by the City (including but not limited to reasonable charges for use of City equipment and employees plus ten percent (10%) overhead) when invoiced by the City. Failure to pay within thirty (30) days of invoice shall cause the amount due to bear interest at eighteen percent (18%) per annum from the invoice date until paid, plus attorney fees and costs incurred by the City in collecting the same.

# FINAL PLAT Green Acres Subdivision

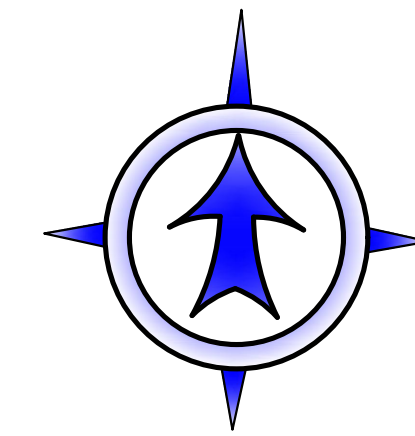
A PART OF SECTION 28, T11N, R1E, S.L.B.&M.  
NIBLEY, CACHE COUNTY, UTAH  
Containing 2.89 Acres in 5 Lots

Northeast Corner Section 28, Township  
11 North, Range 1 East, SLB&M

West 172 Rods  
(By Record)

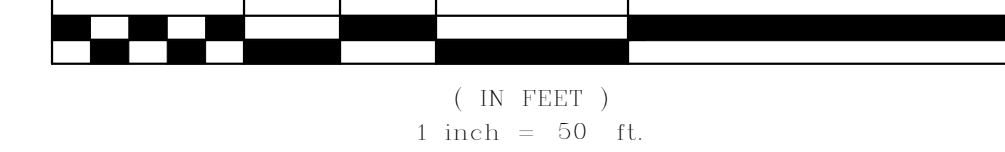
South 32 Rods  
(By Record)

NORTHWEST CORNER LOT 13, BLOCK 17,  
MILLVILLE WEST FIELD SURVEY (BY RECORD)



November 14, 2016

GRAPHIC SCALE



**FINAL PLAT LEGEND:**

- SUBDIVISION BOUNDARY
- LOT LINE
- CENTERLINE
- SETBACK LINE
- DRAINAGE LINE
- EAST FENCE LINE
- EAST IRRIGATION LINE
- EAST SEWER LINE
- NEW SEWER SERVICE
- EAST WATER LINE
- NEW WATER SERVICE
- NEW WATER METER
- EAST WATER VALVE
- EAST FIRE HYDRANT
- EAST SEWER MANHOLE
- IRIG. JUNCTION BOX
- FOUND REBAR AND CAP
- FOUND REBAR AND CAP
- SECTION CORNER
- SET 6" REBAR W/ CAP

Curve #	Length	Radius	Delta	Chord Brg	Chord
C1	88.45'	160.00'	031°40'26"	S73°41'56"E	87.33'
C2	81.36'	160.00'	029°08'01"	N72°25'44"W	80.48'
C3	7.09'	160.00'	002°32'24"	N88°15'57"W	7.09'

**GROUNDWATER NOTE:**  
The ordinary high groundwater elevation was determined in a study by A Cache Corp., dated March 24, 2017 to be as follows:

LOT NUMBERS	HIGH GROUNDWATER ELEVATION
1, 2, 3	4567.59
4, 5	4569.40

NO FINISHED FLOOR ELEVATIONS, INCLUDING BASEMENT FLOOR ELEVATIONS, SHALL BE PERMITTED BELOW THE ABOVEMENTIONED GROUNDWATER ELEVATIONS.

**FORESIGHT SURVEYING**  
Professional Land Surveyors  
2005 North 600 West Suite D  
Logan, Utah 84321  
(435) 753-1910 Office  
(435)-755-3213 Fax  
Project No. 16-126  
Prepared February 13, 2017

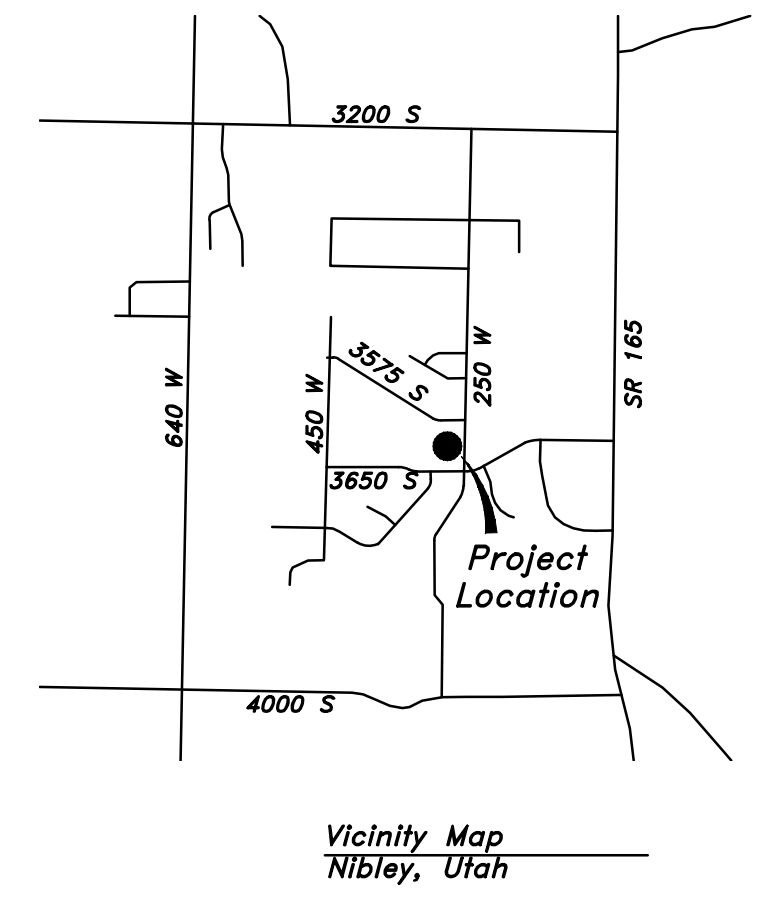
Record Owners: William and Sharie Green  
299 West 3650 South  
Nibley, Utah 84321

**SURVEYOR'S CERTIFICATE**  
I, JEFF C. NIELSEN, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD CERTIFICATE NO. 5152661 AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH, I FURTHER CERTIFY THAT BY AUTHORITY OF THE OWNERS I HAVE MADE A SURVEY OF THE TRACT OF LAND SHOWN ON THIS PLAT AND DESCRIBED BELOW, AND HAVE SUBDIVIDED SAID TRACT OF LAND INTO LOTS AND STREETS HEREAFTER TO BE KNOWN AS: GREEN ACRES SUBDIVISION AND THE SAME HAS BEEN CORRECTLY SURVEYED AND ALL STREETS ARE THE DIMENSIONS SHOWN.

## Green Acres Subdivision Boundary

PART OF SECTION 28, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN.  
BEGINNING AT THE INTERSECTION OF THE SOUTH LINE OF 3575 SOUTH STREET AND THE WEST LINE OF 250 WEST STREET BEING LOCATED NORTH 22°50'26" WEST, A DISTANCE OF 4283.20 FEET FROM THE NORTHEAST CORNER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 1 EAST, SALT LAKE BASE & MERIDIAN, SAID POINT BEING LOCATED BY RECORD SOUTH 88°41'03" EAST A DISTANCE OF 1314.50 FEET AND SOUTH 01°44'44" WEST A DISTANCE OF 799.46 FEET FROM THE NORTHWEST CORNER OF LOT 13, BLOCK 17, MILLVILLE WEST FIELD SURVEY, AND RUNNING THENCE SOUTH 1°44'42" WEST, A DISTANCE OF 427.17 FEET ALONG SAID WEST LINE OF 250 WEST STREET TO THE INTERSECTION OF SAID WEST LINE AND THE NORTH LINE OF 3650 SOUTH STREET; THENCE NORTH 89°32'11" WEST, A DISTANCE OF 204.26 FEET ALONG SAID NORTH LINE; THENCE NORTH 1°44'42" EAST, A DISTANCE OF 213.59 FEET; THENCE NORTH 89°32'10" WEST, A DISTANCE OF 204.27 FEET TO THE EAST LINE OF HERITAGE HILLS PHASE 2 SUBDIVISION; THENCE NORTH 1°44'42" EAST, A DISTANCE OF 22.61 FEET ALONG SAID EAST LINE TO THE SOUTHEAST CORNER OF HERITAGE HILLS PHASE 1 SUBDIVISION; THENCE NORTH 21°38'33" EAST, A DISTANCE OF 247.76 FEET ALONG THE EAST LINE OF SAID PHASE 1 TO THE SOUTH LINE OF SAID 3575 SOUTH STREET; THENCE ALONG SAID SOUTH LINE IN THREE COURSES:  
(1) SOUTH 57°51'43" EAST, A DISTANCE OF 30.98 FEET  
(2) ALONG A 160.00 FOOT RADIUS CURVE TO THE LEFT A DISTANCE OF 88.45 FEET WITH A LONG CHORD BEARING SOUTH 73°41'56" EAST A DISTANCE OF 87.33 FEET  
(3) SOUTH 89°32'08" EAST, A DISTANCE OF 212.91 FEET TO THE POINT OF BEGINNING, CONTAINING 2.89 ACRES +/-

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_  
JEFF C. NIELSEN  
REGISTERED LAND SURVEYOR  
STATE OF UTAH



**OWNER'S DEDICATION**  
KNOW ALL BY THESE PRESENTS THAT WE THE UNDERSIGNED OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO HEREAFTER BE KNOWN AS GREEN ACRES SUBDIVISION, DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE, AND DO WARRANT, DEFEND AND SAVE THE MUNICIPALITY HARMLESS AGAINST ANY EASEMENTS OR OTHER ENCUMBRANCES ON THE DEDICATED STREETS WHICH WILL INTERFERE WITH THE MUNICIPALITY'S USE, OPERATION AND MAINTENANCE OF THE STREETS AND DO FURTHER DEDICATE THE EASEMENTS AS SHOWN, WITH THE SAME WARRANTY AS GIVEN FOR OTHER DEDICATED PROPERTY.  
IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

**ACKNOWLEDGMENT**  
state of UTAH  
County of CACHE  
on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
personally appeared before me, the undersigned notary public in and for said county of Cache, in the state of Utah, the signers of the attached owners dedication, \_\_\_\_\_ in numbers, who duly acknowledged to me they signed it freely and voluntarily and for the purpose therein mentioned.  
NOTARY PUBLIC

**COUNTY RECORDER**  
STATE OF UTAH,  
COUNTY OF CACHE.  
THIS PLAT HAS BEEN DULY ACKNOWLEDGED, CERTIFIED, AND APPROVED AND MAY LAWFULLY BE RECORDED IN CACHE COUNTY, UTAH.  
FILED AND RECORDED:  
FILING NO.: \_\_\_\_\_  
DATE: \_\_\_\_\_  
TIME: \_\_\_\_\_  
BOOK: \_\_\_\_\_  
PAGE: \_\_\_\_\_  
REQUEST OF: \_\_\_\_\_  
CACHE COUNTY RECORDER

**GENERAL NOTES:**  
1. This property is located in the vicinity of property that is used for agricultural purposes. It may be anticipated that such agricultural uses and activities may or may not in the future be conducted in this area and such uses are previously existing uses.  
2. Areas in Nibley City have groundwater problems due to the varying depths of a fluctuating water table. The city's approval of a building permit or construction plans does not constitute a representation by the city that building at any specified elevation or location would solve subsurface or groundwater problems. In addition, concerns for building elevation and/or grading and drainage are unique to each building lot and site. Responsibility for these stated concerns, and all other such concerns related to a lot or other building site, remains solely with the building permit applicant, property owner and/or contractor. Nibley City is not responsible for any subsurface or groundwater problems which may occur, nor for other such concerns, including, but not limited to, building location and/or elevation, site grading, and drainage.  
3. Current Zoning: Residential R2  
Minimum Lot Size: 0.50 Acres  
Minimum Lot Frontage: 100.00 feet  
Setback lines are for primary buildings only.  
Front: 30.00'  
Rear: 25.00'  
Side: 10.00'  
Side along Roadway: 25.00'

**CITY COUNCIL APPROVAL & ACCEPTANCE**  
PRESENTED TO THE NIBLEY CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_, AT WHICH TIME THIS SUBDIVISION WAS APPROVED AND ACCEPTED.  
MAYOR \_\_\_\_\_ CITY RECORDER \_\_\_\_\_

**PLANNING COMMISSION APPROVAL**  
PRESENTED TO THE NIBLEY CITY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_, AT WHICH TIME THIS SUBDIVISION WAS RECOMMENDED TO THE CITY COUNCIL FOR APPROVAL.  
PLANNING COMMISSION CHAIRMAN \_\_\_\_\_

**CITY ATTORNEY APPROVAL**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.  
CITY ATTORNEY \_\_\_\_\_

**ENGINEER'S CERTIFICATE**  
I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND IT TO BE CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE AND THE CITY ORDINANCE.  
DATE \_\_\_\_\_ CITY ENGINEER \_\_\_\_\_

**UTILITY COMPANY APPROVALS**  
THE UTILITY EASEMENTS SHOWN ON THIS PLAT ARE APPROVED  
ROCKY MOUNTAIN POWER \_\_\_\_\_ DATE \_\_\_\_\_  
COMCAST \_\_\_\_\_ DATE \_\_\_\_\_  
QUESTAR GAS \_\_\_\_\_ DATE \_\_\_\_\_  
CENTURY LINK \_\_\_\_\_ DATE \_\_\_\_\_

NIBLEY CITY  
DEVELOPMENT AGREEMENT

THIS AGREEMENT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between Bill Green \_\_\_\_\_, hereinafter referred to as "Developer" and Nibley City, here in after referred to as "City", and

WHEREAS, Green Acres \_\_\_\_\_, hereinafter referred to as "the Development" has been approved for construction; and

WHEREAS, plans for the Development are on file with Nibley City and are incorporated by reference herein; and

WHEREAS, it is necessary for the interest of the public welfare that improvements made be constructed in accordance with the specifications set forth in said plan and as provided by Nibley City ordinances and Design Standards; and

WHEREAS, the Developer desires to record a final plat of the Development in order to obtain building permits and construct structures after the necessary infrastructure is installed, approved an accepted.

NOW THEREFORE, to induce Nibley City to approve said plans and allow use of city-owned utilities and access and/or other improvements, the Developer does hereby unconditionally promise and agree to and with Nibley City as follows:

1. The developer agrees that all connections to Nibley City's water and sewer system will put in by each lot owner as part of the building permit process, and that each connection shall be to Nibley City standards. The Developer also agrees that each connection shall take place as stated on the final plat.
2. The developer agrees that each road cut that the owners of each lot makes in order to connect to the Nibley utilities will be patched according to Nibley City standards and that each lot owner will be responsible to pay the appropriate fees as listed in their building permit for the road cut.
3. The Developer is to supply the City with water rights or shares as set forth in City code 11-5-2 for the Development, as follows: 9.75 acre-feet of water from an irrigation company located in Nibley City. Said shares shall be provided to the City before commencement of construction.
  - a. The City has receipted payment on July 22, 2005 for \$14,000 by the Developer for four water share and recognizes that that payment has fulfilled the requirement of City code 11-5-2.
4. The developer agrees no construction will take place prior to issuance of Notice to Proceed by the Public Works Director.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

NIBLEY CITY

DEVELOPER

By \_\_\_\_\_

By \_\_\_\_\_

State of Utah )  
:ss  
County of Cache )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared before me David N. Zook, City Manager, the signer of the within instrument, who duly acknowledged to me that he executed the same as City Manager for Nibley City Corporation.

\_\_\_\_\_  
Notary Public

STATE OF UTAH )  
: ss  
County of Cache )

On the \_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared before me, Developer, the signer of the foregoing instrument, who duly acknowledged to me that they executed the same.

\_\_\_\_\_  
Notary Public